IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 5227 of 2007(V)

PETITIONER:

1. ELSYKUTTY GEORGE, KOCHUPARAMBIL,
   MANARKAD VILLAGE, KOTTAYAM DISTRICT.

2. K.C. GEORGE, KOCHUPARAMBIL,
   MANARKAD VILLAGE, KOTTAYAM DISTRICT.

BY ADV. SRI.K.M.VARGHESE

RESPONDENTS:

1. UNION BANK OF INDIA,
   REPRESENTED BY SECRETARY, DEPARTMENT OF FINANCE,
   MINISTRY OF FINANCE, NEW DELHI.

2. STATE OF KERALA, REPRESENTED BY
   SECRETARY, CO-OPERATIVE DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. SPECIAL OFFICER (SRFAESI ACT),
   THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
   KOTTAYAM.

ADDITIONAL 4TH RESPONDENT:

4. THE KOTTAYAM CO-OPERATIVE BANK LTD.,
   MANARKKAD BRANCH, REP. BY ITS SECRETARY.

(ADDL.R4 IMPLEADED AS PER ORDER ON I.A.NO.2673/07
DTD.5.3.2007)

BY ADV. SRI.D.SOMASUNDARAM, ADDL.CGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 5227/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE RECEIPT DTD.14.9.04.

P2. COPY OF THE -DO- DTD.14.9.2004.

P3. COPY OF THE NOTICE DTD.30.11.06 SEND TO P1.

P4. COPY OF THE -DO- P2.

P5. COPY OF THE REPLY DTD.19.1.2007 OF P1.

P6. -DO- P2.

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///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.5227 of 2007

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Dated this the 7th day of March, 2007

J U D G M E N T

The petitioners are defaulters of repayment of two loans taken by them from the additional 4th respondent bank. The bank has initiated proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act ("the Act" for short) for recovery of the amount. The prayer of the petitioners is that the bank may be directed to consider their claim for One Time Settlement (OTS) and the petitioners may be permitted to pay the amount determined as per the OTS in easy instalments. The learned Standing Counsel for the 4th respondent bank stoutly opposes the prayer of the petitioners. He would submit that in cases where the proceedings under the Act have already been initiated, the bank has taken a policy decision to insist on payment of the

entire amount in a lump sum to avoid further proceedings under the Act.

2. On a consideration of the rival contentions, I am of opinion that the petitioners are entitled to some indulgence in the matter of repayment of the amounts due. In the above circumstances, the writ petition is disposed of on the following terms:

The petitioners shall pay an amount of Rs.2 lakhs on or before 31.3.2007. If the petitioners pay the said amount of Rs.2 lakhs on or before 31.3.2007, the 4th respondent shall consider Exts.P7 and P8 applications submitted by the petitioners for OTS and pass appropriate orders thereon, within a period of two weeks from the date of receipt of the said amount and intimate the petitioners the amounts to be paid by them in respect of repayment of the loan amounts. On receipt of the said intimation, the petitioners shall pay the balance amounts due, in eight equal monthly instalments starting from 15.5.2007. Every subsequent

instalments shall be paid on the 15th of the succeeding month. If the petitioners pay the above said amounts without default, in time, further proceedings initiated by the 4th respondent bank for coercive recovery and under the Act shall be kept in abeyance. However, if the petitioners commit default in payment of Rs.2 lakhs or any of the instalments as directed above, it would be open to the 4th respondent bank to continue the proceedings already initiated by them without having to issue any fresh notice or proceedings in that regard.

sdk+ S.SIRI JAGAN, JUDGE